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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/711,251 | 09/03/2004 | Eric Mackey | 27475/06878 | 5250 |
| 24024 | 7590 | 08/29/2006 | EXAMINER | |
| CALFEE HALTER & GRISWOLD, LLP 800 SUPERIOR AVENUE SUITE 1400 CLEVELAND, OH 44114 | | | RODRIGUEZ, RUTH C | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3677 | |

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/711,251

Applicant(s)

MACKEY ET AL.

Examiner

Ruth C. Rodriguez

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/18/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In response to applicant's telephone call on 14 August 2006 regarding the last Office action, the following corrective action is taken.

The period for reply of 3 MONTHS set in said Office Action is restarted to begin with the mailing date of this letter.

A copy of the last Office Action is enclosed.

Claim Objections

2. Claims 1, 12, 22 and 24 are objected to because of the following informalities:

- Claim 1, line 2, "a" (second occurrence) should be deleted and "end" should be replaced with --ends-- or --end-- should be inserted between "first" and "and" and --a-- should be inserted between "and" and "second".
- Claim 12, line 5, "a" (second occurrence) should be deleted and "end" should be replaced with --ends-- or --end-- should be inserted between "first" and "and" and --a-- should be inserted between "and" and "second".
- Claim 22, line 2, "a" (second occurrence) should be deleted and "end" should be replaced with --ends-- or --end-- should be inserted between "first" and "and" and --a-- should be inserted between "and" and "second".

- Claim 24, line 5, "a" (second occurrence) should be deleted and "end" should be replaced with --ends-- or --end-- should be inserted between "first" and "and" and --a-- should be inserted between "and" and "second".

Correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 and 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Schrader (US 6,094,784).

A bungee cord hook (12) comprises a base portion (30) including first and second ends and a hook portion (16) extending outwardly away from the base portion (Fig. 14).

The hook portion includes a hook end and an angled portion (18). The angled portion connects the hook portion with the base portion (Fig. 14).

The angled portion is angled back toward the base portion of the bungee cord hook (Fig. 14).

The base portion and the hook portion are comprised of overmolded plastic (C. 4, L. 43-57).

A bungee cord comprises a stretchable cord and a bungee hook (12) secured to either end of the stretchable cord. Each of the bungee hooks comprises a base portion (30) including first and second ends and a hook portion (16) extending outwardly and away from the base portion (Fig. 14).

5. Claims 1-4 8-15 and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Tracy (US 4,559,677).

A bungee cord hook (10) comprises a base portion (24) including first and second ends and a hook portion (16) extending outwardly away from the base portion (Figs. 1 and 2).

The hook portion includes a hook end and an angled portion (Figs. 1 and 2). The angled portion connects the hook portion with the base portion (Figs. 1 and 2).

The angled portion is angled back toward the base portion of the bungee cord hook (Figs. 1 and 2).

The base portion and the hook portion are comprised of overmolded plastic (Figs. 1 and 2).

A bungee cord (10,12) comprises a stretchable cord (12) and a bungee hook (12) secured to either end of the stretchable cord (Figs. 1 and 2). Each of the bungee hooks comprises a base portion (24) including first and second ends and a hook portion (16) extending outwardly and away from the base portion (Figs. 1 and 2).

The hook further comprises a protective bumper (Figs. 1 and 2).

The protective bumper is located along a circumferential surface of the base portion (Figs. 1 and 2).

The protective portion aligns with the hook portion (Figs. 1 and 2).

The protective portion includes a set of grooves (Figs. 1 and 2).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5-7, 16-18 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schrader in view of Johnston (US 2004/0148831).

Schrader disclose a hook having all the features mentioned above in paragraph 3 for the rejection of claim 1. Schrader fails to disclose that the hook further comprises an indicator plate located at the base portion. However, Johnston teaches the use of an indicator plate (12) located at a base (10) is well known for providing information or indicia (Paragraph 0035-0037). Therefore, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have an indicator plate located at a base as taught by Johnston in the hook of Schrader. Doing so, provides a surface for displaying information or indicia.

Johnston teaches that the indicator plate is recessed within the base portion (Figs. 1-3).

A clear protective window as taught by Johnston covers the indicator plate (Figs. 1-3).

A bungee cord hook comprises a base portion, a hook portion and an indicator plate. The base portion includes first and second ends and a circumferential surface. The hook portion extends from the first end of the base portion. The indicator plate is formed in a recess in the circumferential surface of the base portion.

The indicator plate provides information (Paragraphs 0035-0037).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Liberge (US 4,340,998), Dupre (US 4,432,121), Tracy (US 4,559,677), Fisher (US 4,785,509), Prosen (US 5,035,558), McIntire (US 5,383,259), Brody et al. (US 5,630,257 and US 5,682,652), Schrader (US 6,094,784 and US 6,308,383 B1) and Selby (US 2004/0060155 A1) are cited to show state of the art with respect to hooks that have some of the features claimed by the current application.

McDaniel

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C. Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase the patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as PTO's mailroom processing and delivery time. For a complete list of correspondence **not** permitted by facsimile transmission, see MPEP § 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee that the applicant is paying by check **should not be** submitted by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP § 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to
the Patent and Trademark Office (Fax No. (571) 273-8300) on (Date) .

(Typed or printed name of person signing this certificate)

(Signature)

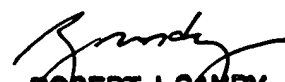
If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP § 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response has been transmitted by facsimile will cause further unnecessary delays in the processing of your application, duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

rcr
August 17, 2006


ROBERT J. SANDY
PRIMARY EXAMINER